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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/687,748	10/20/2003	Abe Nishiki		9269

7590 12/28/2007
Clyde I. Coughenour
16607 Sutton Place
Woodbridge, VA 22191

EXAMINER

GETTMAN, CHRISTINA DANIELLE

ART UNIT	PAPER NUMBER
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3734

MAIL DATE	DELIVERY MODE
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12/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/687,748

Applicant(s)

NISHIKI, ABE

Examiner

Christina D. Gettman

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 17-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Claims 17-19 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in a telephone call made to Clyde Coughenour on December 18, 2006.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Cox (U.S. Patent No. 4,754,746). Cox discloses the invention as claimed including a first and second handle grip (ref. 2, Fig. 1), a first and second jaw (ref. 4, Fig. 1), a first and second blade (ref. 5, Fig. 1), the first and second blades extending upwardly from the jaws (see ref. 5, Fig. 1; if the device were to be flipped, the blades would be extending upwardly), the handle grips joined together so that when handle grips are apart (joined by ref. 3, Fig. 1; see Fig. 1 and how grips are apart when blades are together), the blades are together, ratchet means pivoting between the handle grips (ref. 6, Fig. 1), a first hook means on the first blade (ref. B, Fig. 1), a second hook means on the second blade (ref. B, Fig. 1), a fulcrum pin attaching the handle grips (ref. 3, Fig. 1),

and the first set and second set of handle grips, jaws, blades, and hook means are each an integral part (see Fig. 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox as applied to claim 2 above, and further in view of Ping (U.S. Patent No. 6,116,124). Cox discloses the invention substantially as claimed including a ratchet means with a smooth side (see side opposite of ref. 7, Fig. 1), an irregular cog surface (ref. 7, Fig. 1) opposite the smooth side, and a pawl (ref. 9, Fig. 1). Cox does not disclose the curved rack and the pawl being attached the handles by pivot pins, the pawl fitting inside a slot, the second handle having a spring-loaded projection, a stop on the second handle grip, and resilient means biasing the curved rack towards the pawl. Ping discloses the curved rack and the pawl being attached to the handles by pivot pins (ref. 27 and ref. 42, Fig. 5) for the purpose of rotating the pawl and ratchet relative to one another, the pawl fitting inside a slot (see ref. 15, Fig. 5; ref. 15 is also part of the ratchet means in that it also aids in keeping the jaws at a certain distance from one another) for the purpose of keeping the pawl within the ratchet, the second handle having a spring-loaded projection (ref. 30 and 31, Fig. 5) for the purpose of keeping the curved rack biased in a certain direction, a stop on the second handle grip (ref. 44, Fig.

5, acts like a stop) to prevent further movement to limit pivotal movement of the rack, and resilient means for the purpose of biasing the curved rack towards the pawl (ref. 45, Fig. 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Cox with the curved rack and the pawl being attached to the handles by pivot pins, the pawl fitting inside a slot, the second handle having a spring-loaded projection, a stop on the second handle grip, and resilient means biasing the curved rack towards the pawl all in order to properly spread the blades away from one another and to keep the blades at a specific location relative to one another as taught by Ping.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cox as applied to claim 1 above, and further in view of Schenk (U.S. Patent No. 4,257,406). Cox discloses the invention substantially as claimed except for the enlarged hook means being in the shape of a ball. Schenk teaches using balls on the end of blades (ref. 19 and 20) for the purpose of gripping tissue. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Cox with a ball-shaped hook means in order to grip tissue and spread it apart as taught by Schenk.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cox and Schenk as applied to claim 9 above, and further in view of Tiedemann. (U.S. Patent No. 2003/0233119). Cox and Schenk disclose the invention substantially as claimed except for the hook being coated. Tiedemann teach a hook that is coated with a non-slip for the purpose of protecting the skin (par. 23, line 9). Therefore, it would have been

obvious to one having ordinary skill in the art at the time of the invention to have modified Cox and Schenk with a coating, such as a polymer, as taught by Tiedemann, to keep the hooks from damaging the foreskin upon stretching it.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cox as applied to claim 1 above, and further in view of Tillier (U.S. Patent No. 1,477,786). Cox discloses the invention substantially as claimed except for the first and second sets being made from an integral shaped spring element or the first and second jaws criss-crossing each other. Tillier teaches a tool to spread an element apart that is made from one integral piece (see Fig. 1) for the purpose of decreasing manufacturing costs. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Cox and made the entire device from one integral part in order to ease manufacturing costs and decrease production time.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cox as applied to claim 2 above, and further in view of Roux (U.S. Patent No. 4,124,929). Cox discloses the invention substantially as claimed except for a spring with said fulcrum pin to bias the handle grips away from each other. Roux teaches using a spring with the fulcrum pin (see ref. 19, Fig. 1) for the purpose of biasing the handles away from one another. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Cox with a spring in-between the handles in order to bias the handles away from one another as taught by Roux.

Response to Arguments

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina D. Gettman whose telephone number is 571-272-3128. The examiner can normally be reached on Monday-Friday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number:

10/687,748

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Christina Gettman

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571-272-3128

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SUPERVISORY PATENT EXAMINER